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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/730,103

12/09/2003

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EXAMINER

TROTTER, SCOTT S

ART UNIT

PAPER NUMBER

3694

MAIL DATE

DELIVERY MODE

11/19/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/730,103	<b>Applicant(s)</b> MORITA ET AL.	
	<b>Examiner</b> Scott S. Trotter	<b>Art Unit</b> 3694	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>Feb. 9, 2004</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This action is in response to the application received December 9, 2003.

#### ***Specification***

2. Applicant is required to update the status (pending, allowed, etc.) of all parent priority applications in the first line of the specification. The status of all citations of US filed applications in the specification should also be updated where appropriate.

#### ***Information Disclosure Statement***

3. An initialed and dated copy of Applicant's IDS form 1449 filed February 9, 2004, is attached to the instant Office action.

#### ***Drawings***

4. The following informality has been noted and requires correction in response to this Office Action. Figure 5 includes some Japanese in the middle of the figure.

#### ***Claim Rejections - 35 USC § 112, second paragraph***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. There is both a **peak** cancellation processing step and a **peck** cancellation processing step making it unclear what was intended. There is also a lack of antecedent basis regarding the "travel agency's account".

Clarification and/or correction are required.

***Claim Rejections - 35 USC § 101 Utility***

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

8. Claim 7 and 8 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claim is drawn to a computer program since it is not fixed to a form such as being on a computer readable medium therefore it is not a process, machine, manufacture or composition of matter rendering it nonstatutory.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1, 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis (U.S. Patent 6,233,565 B1) in view of Lynn Woods (Kiplinger's Personal Finance Magazine, April 1996, Vol. 50, Iss. 4, page 15 hereafter Woods) and Christopher Reynolds (Los Angeles Times, Nov. 5, 2000, Page L2 hereafter Reynolds).

As per claim 1 Lewis teaches:

An application-of-reservation management method comprising: an application acceptance step accepting by an application accepting unit tour application-of-reservation information which includes application fee payment information (*See Lewis Abstract*. Placing an order for plane ticket is making a reservation and it includes paying by credit card. *See Lewis column 3 lines 17&18* It includes debit cards and checks in addition to credit cards.) and charge direct debit request information; and a charge processing step calculating by a charge processing unit a tour charge direct debit amount based on a cancellation fee rate previously defined for each cancellation period if no application of cancellation is accepted during cancellation periods set in a plurality of stages taking as reference the tour starting date, and requesting a financial institution to make a direct debit of the tour charge direct debit amount from the applicant's account.

While Lewis does not explicitly teach charging cancellation fees Woods teaches charging cancellation fees to a credit card. It would have been obvious to a person of ordinary skill in the art at the time the invention charge cancellation fees to the payment

method that the customer picked. While Lewis and Woods don't explicitly teach paying for a reservation after it is made it would have also been obvious to a person of ordinary skill in the art at the time the invention was made that the payment terms could include paying the balance after the reservation is made. (*See Reynolds*)

As per claim 2 Lewis, Woods and Reynolds teach:

The application-of-reservation management method according to claim 1, further comprising: a cancellation fee processing step calculating by a cancellation fee processing unit a cancellation fee based on the previously defined cancellation fee rate if an application of cancellation is accepted during any one of the cancellation periods set in a plurality of stages taking as reference the tour starting date, and requesting the financial institution to make a direct debit of the cancellation fee from the applicant's account. (*See Reynolds Abstract third paragraph*. The cancellation fee varies based on when it is cancelled more than thirty days before arrival being one amount and less than that being the forfeiture of the deposit.) It would have been obvious to a person of ordinary skill in the art at the time the invention was made to charge cancellation fees to the payment method that customer selected using Lewis.

As per claims 7 and 8 see the rationales of claims 1 and 2 as parallel method and computer program claims.

As per claims 9 and 10 see the rationales of claims 1 and 2 as parallel method and apparatus claims.

As per claim 11 Lewis teaches:

An application-of-reservation management method comprising: an application acceptance step accepting by an application accepting unit an application-of-reservation which includes payment of an application fee (*See Lewis Abstract*. Placing an order for plane ticket is making a reservation and it includes paying by credit card. *See Lewis column 3 lines 17&18* It includes debit cards and checks in addition to credit cards.) and a request for direct debit of a charge from the applicant's account; and a charge processing step calculating by a charge processing unit a charge direct debit amount based on a cancellation fee rate previously defined for each cancellation period if no application of cancellation is accepted during cancellation periods set in a plurality of stages taking as reference the execution date of the reservation applied, and requesting a financial institution to make a direct debit of the charge direct debit amount from the applicant's account.

While Lewis does not explicitly teach charging cancellation fees Woods teaches charging cancellation fees to a credit card. It would have been obvious to a person of ordinary skill in the art at the time the invention charge cancellation fees to the payment method that the customer picked. While Lewis and Woods don't explicitly teach paying for a reservation after it is made it would have also been obvious to a person of ordinary skill in the art at the time the invention was made that the payment terms could include paying the balance after the reservation is made. (*See Reynolds*)

As per claim 2 Lewis, Woods and Reynolds teach:

The application-of-reservation management method according to claim 11, further comprising: a cancellation fee processing step calculating by a cancellation fee

processing unit a cancellation fee based on the previously defined cancellation fee rate if an application of cancellation is accepted during any one of the cancellation periods set in a plurality of stages taking as reference the execution date of the reservation applied, and requesting the financial institution to make a direct debit of the cancellation fee from the applicant's account. (See *Reynolds Abstract third paragraph*. The cancellation fee varies based on when it is cancelled more than thirty days before arrival being one amount and less than that being the forfeiture of the deposit.) It would have been obvious to a person of ordinary skill in the art at the time the invention was made to charge cancellation fees to the payment method that customer selected using Lewis.

11. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis in view of Woods, Reynolds, and Official Notice.

As per claims 3 and 4 Lewis, Woods and Reynolds combine to teach claim 1 and 2 while they don't explicitly teach making installment payments. Official Notice is taken that installment contracts calling for payments in installments including contracts utilizing direct payments are old and well known in the art of making payment. Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to pay the tour fee in installments consisting of the "tour cancellation fees" and the remaining balance. It also would have been obvious to pay for it using the payment method suggested by the customer using Lewis.

As per claim 5 Official Notice is taken that it is old and well known in the art of reservations to require higher cancellation fees and greater cancellation notice for peak times. (See *Woods*. Charging a special cancellation fee during the Olympics.)



Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have charged peak season cancellation fee starting earlier than other times.

As per claim 6 Official Notice is taken that peak seasons are old and well known in the art of vacation resorts and include every day of the year as part the peak season for something.

Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have the peak season be from December 20 to January 7, from April 27 to May 6, and from July 20 to August 31.

### ***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure:

- Christopher Reynolds, The Sunday Patriot – News September 30, 2001 page J01. Cancellations with waived cancellation fees after the September 11<sup>th</sup> terrorist attacks.
- Christina Binkley, et al., Asian Wall Street Journal, September 21, 2001, page 10. Refund policies being changed and detailed after the September 11<sup>th</sup> terrorist attacks.

13. Examiner's Note: The Examiner has cited particular columns and line numbers in the references as applied to the claims for the convenience of the applicant.

Although the specified citations are representative of the teachings in the art and are

applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

14. Any inquiry concerning this communication from the examiner should be directed to Scott S. Trotter, whose telephone number is 571-272-7366. The examiner can normally be reached on 8:30 AM – 5:00 PM, M-F.


15. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James P. Trammell, can be reached on 571-272-6712.

16. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

17. The fax phone number for the organization where this application or proceeding is assigned are as follows:

(571) 273-8300	(Official Communications; including After Final Communications labeled "BOX AF")
(571) 273-6705	(Draft Communications)

Scott Trotter  
11/10/2007

  
ELLA COLBERT  
PRIMARY EXAMINER